

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JASON D. COOPER,

Plaintiff,

v.

JOSEPH LEHMAN, and ALICE PAYNE,

Defendants.

Case No. C07-5264FDB

ORDER ON PLAINTIFF'S  
PENDING MOTIONS

The Court, having reviewed the record in this matter, does hereby find and ORDER:

(1) Plaintiff's motions to transport, requesting an order from the court to direct his appearance at court to argue his case (Docs. 15, 22) are DENIED. This is a civil matter and oral argument is not necessary or needed to clarify the issues presented. See Local Rule CR 7(b)(4).

(2) Plaintiff's motion for appointment of counsel (Doc. 23) is DENIED. There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331. Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, it appears that this case does not involve exceptional circumstances which

1 warrant appointment of counsel.

2 (3) Plaintiff's motion to strike documents from the record (Doc. 14) is GRANTED. Plaintiff states  
3 he inadvertently filed certain documents in his pleadings submitted on May 9, 2007, which should not be  
4 part of the record. **The clerk is directed to remove those six documents identified by Plaintiff in his**  
5 **motion from the court's electronic filing system.**

6 (4) On this date the court directed service of Plaintiff's Amended Complaint after Plaintiff  
7 supplies the clerk with the required marshals forms. To allow Defendants an opportunity to Answer the  
8 Amended Complaint and respond to Plaintiff's motions for injunctive relief and supporting pleadings  
9 (Docs. 12, 13, 17, & 18), the court clerk should reschedule that matter to be considered on the court's  
10 November 2, 2007 motion calendar. Accordingly, Defendants should file a response to the injunctive  
11 requests by no later than Monday, October 29, 2007.

12 (5) The Clerk is further directed to send copies of this Order to plaintiff and to counsel of record,  
13 if any has appeared as of this date.

14 DATED this 16<sup>th</sup> day of August, 2007.

15  
16 /s/ J. Kelley Arnold  
17 J. Kelley Arnold  
18 United States Magistrate Judge  
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